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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Berberich

Plaintiff,

-v-

eMagin Corp.

Defendant.

Case No.

07 Civ. *8827* (KMK) ()

CASE MANAGEMENT AND
SCHEDULING ORDER

KENNETH M. KARAS, District Judge:

At the conference before the Court held on July 8, 2008 this Case Management Plan and Scheduling Order was adopted in accordance with Rules 16-26(f) of the Federal Rules of Civil Procedure.

1. All parties (consent) (do not consent) to trial by Magistrate Judge, pursuant to 28 U.S.C. § 636(c) [circle one]. [If all consent, the remainder of the Plan and Order need not be completed at this time.]
2. This case (is) (is not) to be tried to a jury [circle one].
3. No additional parties may be joined except with leave of the Court.
4. Amended pleadings may not be filed except with leave of the Court.
5. Initial disclosure pursuant to Rules 26(a)(1), Fed. R. Civ. P., will be completed not later than 7/22/08 [absent exceptional circumstances, within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f)].
6. All *fact* discovery is to be completed no later than 1/31/09 [a period not to exceed 120 days unless the Court finds that the case presents unique complexities or other exceptional circumstances].
7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties meet the fact discovery completion date in paragraph 6 above:

a. Initial requests for production of documents to be served by

~~7/22/08~~ 8/19/08

b. Interrogatories to be served by 8/19/08.

c. Depositions to be completed by 1/15/09.

i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.

ii. There is no priority in deposition by reason of a party's status as plaintiff or defendant.

iii. Unless the parties agree or the Court so orders, non-party depositions shall follow initial party depositions.

d. Requests to Admit to be served no later than 1/25/09.

8. All *expert* disclosures, including reports, production of underlying documents and depositions are to be completed by:

a. Expert(s) of Plaintiff(s) N/A.

b. Expert(s) of Defendant(s) N/A.

9. Motions: All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. Summary Judgment or other dispositive motions are due at the close of discovery. Pursuant to the undersigned's Individual Practices, the parties shall request a pre-motion conference in writing at least four (4) weeks prior to this deadline.

10. All counsel must meet for at least one hour to discuss settlement not later than two weeks following the close of fact discovery.

11. a. Counsel for the parties have discussed holding a settlement conference before a Magistrate Judge.

b. The parties (request) (do not request) a settlement conference before a United States Magistrate Judge [circle one].

12. a. Counsel for the parties have discussed the use of the Court's Mediation Program.

b. The parties (request) (do not request) that the case be referred to the

Court's Mediation Program [circle one].

13. a. Counsel for the parties have discussed the use of a privately-retained mediator.
- b. The parties (intend) (do not intend) to use a privately-retained mediator [circle one].
14. The parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed.R.Civ.P. If this action is to be tried before a jury, proposed voir dire, jury instructions and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on jury instructions and verdict form in an effort to make an agreed upon submission.
15. Parties have conferred and their present best estimate of the length of trial is 1 week.

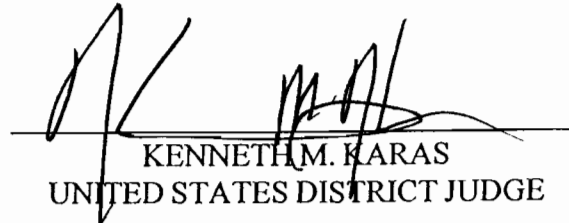
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TO BE COMPLETED BY THE COURT:

16. [Other directions to the parties:]
17. The (next Case Management) (Final Pretrial Conference) is scheduled for 2/27/09 at 10am.

SO ORDERED.

DATED: White Plains, New York
July 8, 2008.


KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE